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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/171,049	10/12/98	REZAI	E JA138
		IM22/1115	EXAMINER
			PRATT, C
			ART UNIT PAPER NUMBER
			1771 9
		DATE MAILED:	11/15/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

Commissioner of Patents and Trademarks

## Office Action Summary

	Application No.	Applicant(s)
	09/171,049	REZAI ET AL.
	Examiner	Art Unit
	Christopher C. Pratt	1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM

THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

1) Responsive to communication(s) filed on 28 September 2000.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 1-19 and 39-41 is/are pending in the application.

4a) Of the above claim(s) 20-38 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-19 and 39-41 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some \* c) None of the CERTIFIED copies of the priority documents have been:

1. received.

2. received in Application No. (Series Code / Serial Number) \_\_\_\_\_.

3. received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

### Attachment(s)

15) Notice of References Cited (PTO-892)  
 16) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

18) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.  
 19) Notice of Informal Patent Application (PTO-152)  
 20) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Response to Amendment***

1. Applicant's amendments and accompanying remarks filed 9/28/00 have been entered and carefully considered. The amendments are not found to patentably distinguish the claims over the prior art and Applicant's arguments are not found persuasive of patentability for reasons set forth herein below.

***Election/Restrictions***

2. This application contains claims 20-38 drawn to an invention nonelected with traverse in Paper No. 6. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

***Specification***

3. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1-19 and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al (5849405) in view of Early et al (4468428) and Anjur et al (5645542), as set forth in the last action.

Applicant has not amended the claims in an attempt to overcome the prior art. Applicant argues that Wang does not teach the absorbent gelling particles to be

adhered to the carrier layer. The examiner points to col. 16, line 43 in which Wang specifically teaches the absorbent material to be **attached** to the substrate web. The substrate web of Wang is equivalent to applicant's carrier layer. As a method for attaching the absorbent particles to the web Wang discloses the use of glue and binders (col. 13, line 30). As applicant points out Wang does not disclose the use of microfibers as the binder used in Wang. However, the use of binder fibers is extremely common and well known in the art. The examiner utilized the teachings of Early to show that a person of ordinary skill in the art would not only select binder fibers as the binder of Wang, but would be motivated to select microdenier binder fibers. Early teaches the use of a web comprising at least 50% microfibers and other absorbent materials, which do not have to be microfibers (col. 4, lines 55-65). Said microfibers may be composed of thermoplastics (col. 7, lines 10-20) while said other materials may comprise absorbent pulp (col. 4, lines 58-61). Early promotes the use of microfibers because they increase the water absorbent capacity of a web (col. 4, lines 10-20). A person of ordinary skill in the art would therefore be motivated to utilize microdenier fibers in order to further increase the water absorbing capacity of Wang's web. Early also provides a broad teaching of melting these fibers to facilitate bonding and thereby increase the strength of the web (col. 7, lines 45-48). Applicant argues that this teaching would lead a person of ordinary skill in the art to melt all the fibers of Early. However, early also teaches using only a particular amount of thermoplastic binder fibers to bind absorbent webs (col. 1, lines 41-50 and col. 2, lines 44-48). Based on this teaching and Early's disclosure of the use of at least 50% thermoplastic binder fibers and 50% pulp fibers it is

the examiners position that given the teachings of both patents a person of ordinary skill in the art would have been motivated to use the microfibers of Early as the binder of Wang.

Applicant also argues that the instant microfibers have a "tackiness" not present in the microfibers of Early. It is the examiner's position that this argument is not commensurate in scope with the claimed invention because said property does not appear to be positively claimed. Even if such a property were claimed it appears to the examiner that this property would be inherent in the fibers of Wang in view of Early, because binder fibers must have some tackiness in order to function as binder fibers.

#### *Conclusion*

**6. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Pratt whose telephone number is 703-305-6559. The examiner can normally be reached on Monday - Friday from 7 am to 4 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2351.

Christopher C. Pratt  
November 6, 2000



TERREL MORRIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700